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VIA ECF

The Honorable Raymond J. Dearie
United States District Judge
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Dover, et al. v. British Airways, PLC*, No. 1:12-cv-5567-RJD-MDG

Dear Judge Dearie:

British Airways PLC ("BA") writes in response to the plaintiffs' April 6, 2017 letter requesting that the Court now set a trial date in this matter for after July 7, 2017. (Dkt. 250). The plaintiffs also indicated in their letter that they plan on filing a class notice plan within ten days.

These actions are premature for two reasons: (1) the parties' summary judgment motions and *Daubert* challenges are still pending, and all of those motions should be resolved before the Court sets a trial date and approves a notice plan, and (2) BA intends to file a petition under Rule 23(f) of the Federal Rules for leave to appeal the Court's April 4, 2017 order certifying a class. Accordingly, no action is required by the Court at this time.

First, BA's and the plaintiffs' summary judgment motions remain pending before this Court, as well as the parties' multiple *Daubert* motions. Those motions should be decided before the Court supervises dissemination of class notice and sets a trial schedule.

Second, BA intends to file a petition for review under Rule 23(f). Rule 23(f) provides this Court, or the Second Circuit, with discretion to stay proceedings in the district court pending resolution of an appeal of a class certification order. *See* Fed R. Civ. Pro. 23(f); *see also Nat'l Asbestos Workers Med. Fund v. Philip Morris, Inc.*, 2000 WL 1424931, at *2 (E.D.N.Y. Sept. 26, 2000) (granting Rule 23(f) stay because "the rule was designed to accommodate the need for quick appellate review of class certification decisions"). At the appropriate time, BA will file a motion for a stay.

Accordingly, the Court should decline to set a trial date or disseminate class notice at this time.

Respectfully submitted,

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